

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS
BOSTON DIVISION

BIEDERMANN MOTECH GMBH and)	
DEPUY SPINE, INC.,)	
)	Case No.: 06CV11111EFH
Plaintiffs,)	
)	Judge Edward F. Harrington
v.)	
)	
ALPHATEC SPINE, INC.,)	
)	
Defendant.)	
)	

**PLAINTIFFS' MOTION FOR PARTIAL
SUMMARY JUDGMENT OF INFRINGEMENT**

Pursuant to Rule 56 of the Federal Rules of Civil Procedure and Local Rule 56.1, Plaintiffs, Biedermann Motech GmbH and DePuy Spine, Inc. (collectively, "Biedermann") hereby move for partial summary judgment finding that the Accused Products of Alphatec Spine, Inc. ("Alphatec") include a receiver member having "two holes for receiving a rod."

For reasons set forth in Plaintiffs' Opposition to Alphatec's Motion for Summary Judgment, filed concurrently herewith, the statement of undisputed facts filed concurrently herewith, and upon any further evidence and argument that is submitted at or before the hearing on this matter, this motion should be granted.

REQUEST FOR ORAL ARGUMENT

Pursuant to L.R. 7.1(D), Alphatec requests that the Court hear oral argument on this issue.

LOCAL RULE 7.1(A)(2) CERTIFICATION

Counsel for Biedermann hereby certify that they have conferred with counsel for Alphatec in a good faith attempt to resolve or narrow the issue presented in this motion. Counsel's attempts were unsuccessful.

Dated: February 9, 2007

Respectfully submitted,
BIEDERMANN MOTECH GMBH
and DEPUY SPINE, INC.,

By their attorneys,

/s/ Scott E. Erlich

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CERTIFICATE OF SERVICE

I hereby certify that this document, filed through the ECF system, will be sent electronically to the registered participants as identified on the Notice of Electronic Filing on February 9, 2007.

/s/ Scott E. Erlich

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